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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,693	09/08/2003	Roy Higgs		1258

7590 01/10/2008  
Patent Office of J. John Shimazaki  
P.O. Box 650741  
Sterling, VA 20165

EXAMINER
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BOVEJA, NAMRATA

ART UNIT	PAPER NUMBER
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3622

MAIL DATE	DELIVERY MODE
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01/10/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10657693	9/8/2003	HIGGS, ROY	

Patent Office of J. John Shimazaki  
P.O. Box 650741  
Sterling, VA 20165

**EXAMINER**

Namrata Boveja

ART UNIT	PAPER
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3622

20080102

DATE MAILED:

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**Commissioner for Patents**

### DETAILED ACTION

1. This office action is in response to communication filed on 10/01/2007.
2. Claims 1-19 have been cancelled. Newly submitted claims 20-39 are withdrawn from consideration. No claims are presented for examination.
3. Applicant's amendment to the specification has been entered.
4. Newly submitted claims 20-39 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:
  - I. Originally filed claims 1-19, are drawn to a method of providing sales of goods and/or services by pre-selected retail merchants within a shopping mall, comprising: providing a microenvironment within said shopping mall, locating at least two retail merchants on the property of said shopping mall in or adjacent to said microenvironment, and providing at least one activity within said micro-environment having a theme designed to help promote the particular goods and/or services offered for sale by at least two retail merchants to attract customers to at least two retail merchants, classified in class 705, subclass 14.
  - II. In contrast, newly submitted claims 20-39, are drawn to a method of encouraging retail tenants to occupy and lease space within a shopping complex, and of promoting sales of goods and/or services therein, comprising: providing a shopping complex under common ownership having a plurality of individual spaces capable of being

leased to individual retail tenants, providing a physical microenvironment within said shopping complex comprising a common area with a theme associated with at least one of individual retail tenants to occupy the space, selecting a retail tenant to occupy a space in the microenvironment, and conducting an activity in the microenvironment that is entertaining to customers of at least one retail tenant, classified in class 705, subclass 14.

5. Inventions of groups I and group II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, the invention of group II has separate utility such as encouraging retail tenants to occupy and lease space within a shopping complex, and of promoting sales of goods and/or services therein, comprising: providing a shopping complex under common ownership having a plurality of individual spaces capable of being leased to individual retail tenants, and selecting a retail tenant to occupy a space in the microenvironment, which does not involve providing a providing a microenvironment within said shopping mall, locating at least two retail merchants on the property of said shopping mall in or adjacent to said microenvironment, and providing at least one activity within said micro-environment having a theme designed to help promote the particular goods and/or services offered for sale by at least two retail merchants to attract customers to at least two retail merchants. The focus of the new claims, 20-39 is on signing up tenants for occupying the mall space in a shopping complex. The focus of the old claims, 1-19, was on

providing an environment for the pre-selected retailers, who are already located in the shopping complex, to maximize sales, and the claims did not focus on attracting new tenants and leasing mall space. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 20-39 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

**Response to Amendment - NON-RESPONSIVE AMENDMENT**

The reply filed on 10/01/2007 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

(1) the "Amendment" filed on 10/01/2007 cancelled all claims drawn to the elected invention (i.e., elected by original presentation) and presented only claims drawn to a non-elected invention and this is non-responsive (see the Manual of Patent Examining Procedure (MPEP) § 821.03).

See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to

avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

The examiner notes that since the "Amendment" of 10/01/2007 was found to be NON-RESPONSIVE, it has not been entered. Therefore, at present the claims remain as presented in the "Original Set of Claims" filed on 09/08/2003. Any "Amendment" that Applicants now file should either reinstate claims 1-19 (as "original", "currently amended", or "previously presented") or add new claims beginning with "20", but only new claims to the subject matter originally presented.

#### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Namrata (Pinky) Boveja whose telephone number is 571-272-8105. The examiner can normally be reached on Mon-Fri, 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The **Central Fax Number** for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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Art Unit: 3622


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you have questions on access to the Private PAIR system, contact the Electronic  
Business Center (EBC) at 1866-217-9197 (toll-free).

NB

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January 2, 2008

  
**RETTA YEHDEGA**  
**PRIMARY EXAMINER**